

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

SARAH BONES, in her Personal Capacity,  
and as Personal Representative of the Estate  
of JOSHUA BONES, deceased; C.G., a  
minor, by and through his Guardian, SARAH  
BONES; and T.G., a minor, by and through  
his Guardian, SARAH BONES,

Plaintiffs,

vs.

H.I.G. CAPITAL, LLC; WELLPATH;  
COUNTY OF CLALLAM, WASHINGTON,  
a Political Subdivision of the State of  
Washington; BILL BENEDICT; DON  
WENTZEL; TYLER CORTANI; LETICIA  
RUBALCAVA; KRISTIN MICHELLE  
PUHL; ALICIA C. LONG; EDWARD S.  
BERETTA; LINSEY JANE MONAGHAN;  
TAMARA VANOVER; KATHERINE E.  
JONES; and JOHN DOES 1-10,

Defendants.

Case No. 2:24-cv-00110

DEFENDANT WELLPATH LLC'S  
MOTION TO STRIKE

**I. INTRODUCTION**

Plaintiffs filed a Complaint that goes beyond alleging facts, to being rife with subjective insults and judgmental accusations regarding Defendant Wellpath LLC (erroneously identified as "Wellpath"). These salacious jibes serve only to improperly impugn Wellpath and prejudice its defense of this case on the merits. Accordingly, pursuant to Fed. R. Civ. P. 12(f), Wellpath—

1 by and through its counsel, Jonathan D. Ballard and Ross C. Taylor of Fox Ballard PLLC—  
2 respectfully requests the Court strike the unnecessary and inappropriate accusations in Plaintiffs’  
3 Complaint.<sup>1</sup>

## 4 **II. FACTS AND POSTURE**

5 The underlying lawsuit was initiated by the Estate of Joshua Bones, against Defendants  
6 H.I.G. Capital, Wellpath, Clallam County, as well as several individuals and Does.<sup>2</sup> The events  
7 at issue relate to Mr. Bones’ suicide at the Clallam County Jail in 2022.<sup>3</sup> Plaintiffs allege that  
8 Wellpath contracted with Clallam County to provide medical, dental, and mental health services  
9 to individuals incarcerated at the Clallam County Jail.<sup>4</sup> The Complaint thereafter asserts claims  
10 of negligence and deliberate indifference.<sup>5</sup> Wellpath disputes the allegations.

11 To avoid redundant briefing, the provisions of the Complaint to which Wellpath is  
12 requesting be stricken are identified with specificity in the argument section below.

## 13 **III. AUTHORITY AND ARGUMENT**

14 Under Rule 12(f) a “court may strike from a pleading ... any redundant, immaterial,  
15 impertinent, or scandalous matter.” “[T]he function of a 12(f) motion to strike is to avoid the  
16 expenditure of time and money that must arise from litigating spurious issues by dispensing with  
17 those issues prior to trial.” *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993) (quoting  
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22 <sup>1</sup> Local Rule 7(g) generally requires motions to strike to be included in responsive briefs, rather  
23 than in separately stated motions. There is an explicit clarification, however, that the Local Rule  
24 “does not limit a party’s ability to file a motion to strike otherwise permitted by the Federal Rules  
of Civil Procedure, including Fed. R. Civ. P. 12(f) motions to strike material in pleadings.” This  
Motion is a Fed. R. Civ. P. 12(f) motion.

25 <sup>2</sup> ECF 1-1 at ¶¶ 1, 3, 10, and 14.

26 <sup>3</sup> Id. at §II, ¶ 30.

27 <sup>4</sup> Id. at §I, ¶ 4.

<sup>5</sup> Id. at §§ IV, V, VI.

1 *Sidney-Vinstein v. A.H. Robins Co.*, 697 F.2d 880, 885 (9th Cir. 1983), rev'd on other grounds,  
2 510 U.S. 517, 114 S. Ct. 1023, 127 L. Ed. 2d 455 (1994)).

3 For purposes of the rule and this Court's analysis, matter is "immaterial" if it lacks an  
4 essential or important relationship to the claim for relief or the defenses being pleaded. *Fantasy*,  
5 *Inc.* 984 at 1527. Allegations are "impertinent" if they are not responsive to the issues that arise  
6 in the action and that are admissible as evidence. *In re 2TheMart.com, Inc Sec. Litig.*, 114 F.  
7 Supp. 2d 955, 965 (C.D. Cal. 2000). A "scandalous" matter is that which casts a cruelly  
8 derogatory light on a party or other person. *Mazzeo v. Gibbons*, 649 F. Supp. 2d 1182, 1202 (D.  
9 Nev. 2009). Superfluous historical allegations are properly subject to a motion to strike. *Fantasy*,  
10 *Inc.*, 984 F.2d at 1527. This is particularly true where the allegations create risks of prejudice,  
11 delay, or confusion of the issues. *Id.* at 1528. Striking allegations is also appropriate where they  
12 would unnecessarily complicate a claim by requiring the introduction of extensive evidence on  
13 peripheral issues. *Id.* "Courts have struck allegations that levy insults at parties or attorneys ...  
14 or that raise prior instances of alleged misconduct 'for no other reason than to cast [a party] in a  
15 negative light.'" *Ewing v. Freedom Forever, LLC*, 2024 U.S. Dist. LEXIS 10197, \*33 (quoting  
16 *Tuck v. Guardian Prot. Servs. Inc.*, No. 15-CV-1376 JLS (JLB), 2017 U.S. Dist. LEXIS 39896,  
17 2017 WL 1047122, at \*2 (S.D. Cal. Mar. 20, 2017)).

18 Plaintiffs' Complaint need only contain a short and plain statement, with sufficient factual  
19 assertions to show that relief can be granted. Fed. R. Civ. P. 8(a)(2); *Bell Atl. Corp. v. Twombly*,  
20 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678–69 (2009). Instead, Plaintiffs  
21 inserted various improper averments. In response, and under the standards defined above,  
22 Wellpath respectfully requests the following allegations be stricken:

23 Plaintiff alleges Mr. Bones was "needlessly killed by [the] Defendants' acts and  
24 omissions."<sup>6</sup> The claims at issue are for negligence and indifference, and not any intentional tort.

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27 <sup>6</sup> *Id.* at §I, ¶ 1.

1 Accusing Defendants of “killing” Mr. Bones is impertinent—as it is not what is being claimed  
2 in this litigation—as well as scandalous.

3 Plaintiff asserts that Wellpath “arose from the ashes” of a separate entity, Correct Care  
4 Solutions, while describing CCS’ “rise to infamy.”<sup>7</sup> These historic accusations about a business  
5 entity that preceded Wellpath’s existence, as well as the use of idiom, is immaterial and  
6 scandalous.

7 Plaintiff claims that CCS “continued to rack up an appalling body count,” citing the  
8 purported numbers of lawsuits against that entity.<sup>8</sup> Putting aside the hundreds of thousands or  
9 even millions of positive and helpful healthcare encounters facilitated by correctional healthcare  
10 providers, this accusation (regarding an entity that is not Wellpath) is impertinent, immaterial,  
11 and scandalous.

12 Plaintiff refers to a criminal conviction of Jerry Boyle.<sup>9</sup> The allegation and events  
13 underlying that criminal conviction are wholly unrelated to Plaintiff’s claims in this suit.  
14 Accordingly, it is impertinent, immaterial, and scandalous. This is precisely the type of  
15 “superfluous historical allegations” that are properly stricken. *Fantasy, Inc.*, 984 F.2d at 1527.

16 Plaintiff asserts that Wellpath achieved profit by providing less “or no care” to  
17 incarcerated individuals.<sup>10</sup> The suggestion that Wellpath did not provide any care—its primary  
18 purpose—is as insulting as it is preposterous. This is impertinent, immaterial, and scandalous.

19 Plaintiff makes the averment that Wellpath conspires to deny inmates care in relation to  
20 their release dates.<sup>11</sup> No facts support this threadbare allegation. It also bears no relationship to  
21 the circumstances of Mr. Bone’s care and treatment. It is impertinent, immaterial, and scandalous.

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24 <sup>7</sup> *Id.* at §I, ¶¶10, 12.

25 <sup>8</sup> *Id.* at §1, ¶ 13.

26 <sup>9</sup> *Id.* at §I, ¶ 15.

27 <sup>10</sup> *Id.* at §I, ¶ 16.

<sup>11</sup> *Id.* at §I, ¶ 17.

1 Plaintiff asserts Wellpath has a policy of not attempting to diagnose or monitoring choric  
2 diseases and other ailments.<sup>12</sup> Again, this is a threadbare allegation that is nether correct nor  
3 rational. It is impertinent, immaterial, and scandalous.

4 Plaintiff vaguely asserts Wellpath had “pervasive unconstitutional conduct.”<sup>13</sup> This  
5 unsupported insult is immaterial, impertinent, and scandalous.

6 Plaintiff accuses Wellpath (and all Defendants) of “not even trying” and that its staff  
7 demonstrate “a cold-hearted attitude.”<sup>14</sup> These quips are not factual allegations and serve no  
8 purpose other than maligning Wellpath and its providers. They are impertinent, immaterial, and  
9 scandalous in the plainest sense of the words.

#### 10 IV. CONCLUSION

11 Based on the authority and argument above, Wellpath respectfully requests this Court  
12 strike the offending portions of Paragraphs 1, 10, 12, 13, 15-18, and 25 from Parties portion of  
13 Plaintiff’s Complaint (§I), as well as from Paragraph 34 from the Fact section (§III) of Plaintiff’s  
14 Complaint.

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26 <sup>12</sup> *Id.* at §I, ¶ 18.


27 <sup>13</sup> *Id.* at §I, ¶ 25.

<sup>14</sup> *Id.* at §III, ¶ 34.

Undersigned counsel certifies that this memorandum contains 1,017 words, in compliance with the Local Civil Rules.

DATED this Thursday, February 29, 2024.

FOX BALLARD PLLC

By:   
Jonathan D. Ballard, WSBA No. 48870  
Attorney for Defendant Wellpath LLC and  
Alicia C. Long

**DECLARATION OF SERVICE**

I hereby declare under penalty of perjury under the laws of the State of Washington that I caused a true and correct copy of the foregoing **DEFENDANT WELLPATH LLC'S MOTION TO STRIKE** to be served via the methods below on this Thursday, February 29, 2024, on the following counsel/party of record:

Joseph Schodowski, WSBA # 42910 Schodowski Law, Inc, PS 210 Polk Street, Suite 8 Port Townsend, WA 98368  Ryan D. Dreveskracht, WSBA # 42593 Galanda Broadman, PLLC P.O. Box 15146 Seattle, WA 98115  <i>Attorneys for Plaintiff</i>	<input type="checkbox"/> via U.S. Mail, first class, postage <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via E-Service <input type="checkbox"/> via E-mail: joe@schodowskilaw.com rebecca@schodowskilaw.com ryan@galandabroadman.com
John E. Justice, WSBA # 23042 Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. P.O. Box 11880, Olympia, WA 98508  <i>Attorney for Defendants Clallam County, Bill Benedict, Don Wenzl, Tyler Cortani, Kristin Michelle Puhl, Edward S. Berretta, Lindsay Jane Monaghan, and Tamara Vanover</i>	<input type="checkbox"/> via U.S. Mail, first class, postage <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via E-Service <input type="checkbox"/> via E-mail: jjjustice@lldkb.com lisa@lldkb.com tam@lldkb.com tmonroe@lldkb.com
Robert L. Bowman, WSBA # 40079 Samantha K. Pitsch, WSBA # 54190 Stokes Lawrence, P.S. 1420 Fifth Avenue, Suite 3000 Seattle, WA 98101-2393  <i>Attorneys for Defendant H.I.G. Capital, LLC</i>	<input type="checkbox"/> via U.S. Mail, first class, postage <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via E-Service <input type="checkbox"/> via E-mail: robert.bowman@stokeslaw.com samantha.pitsch@stokeslaw.com

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Signed at Seattle, WA, on this Thursday, February 29, 2024.

*Eric Hufnagel*

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